

1 Honorable Chief Judge Ricardo S. Martinez  
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10 UNITED STATES DISTRICT COURT FOR THE  
11 WESTERN DISTRICT OF WASHINGTON  
12 AT SEATTLE  
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15 UNITED STATES OF AMERICA,

16 Plaintiff

17 v.  
18

LONNIE EUGENE LILLARD,

19 Defendant.

20 NO. CR16-007 RSM

21 MOTION TO UNSEAL FOR LIMITED  
22 PURPOSE  
23  
24

Noting Date: June 25th, 2021

25 A. Introduction

26 The United States of America, by Tessa M. Gorman, Acting United States  
27 Attorney for the Western District of Washington, and Michael S. Morgan, Assistant  
28 United States Attorney, submits this motion for an order unsealing a recording in the  
above-captioned case.

B. Discussion

The government requests that this Court sign an order unsealing the sealed  
recording of the *Farettta* hearing held before Magistrate Judge Mary Alice Theiler on  
June 13, 2017 (Dkt. #132) so that a transcript of the recording can be obtained for  
appellate purposes. During this hearing, Magistrate Judge Theiler denied Defendant  
Motion to Unseal for Limited Purpose

United States v. Lillard, CR16-007 RSM - 1

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1   | Lonnie E. Lillard's request to proceed pro se during the evidentiary hearing held to  
 2   determine (among other things) the loss amount resulting from Lillard's crime, as well as  
 3   the amount of restitution to be paid. Lillard objected to that ruling (Dkt. #150), and this  
 4   Court reviewed Magistrate Judge Theiler's ruling *de novo*, though it did listen to the  
 5   recording of the *Farettta* hearing conducted by Magistrate Judge Theiler as part of the  
 6   record the Court considered. The Court ultimately allowed Lillard to proceed pro se  
 7   during the evidentiary hearing (Dkt. #159, 161), though the Court also granted Lillard's  
 8   mid-hearing request to abandon his pro se status and to resume representation by  
 9   appointed counsel. Dkt. #173.

10       One of the issues raised by Lillard on his appeal is that the Court erred in allowing  
 11   him to proceed pro se because the Court's *Farettta* colloquy was purportedly inadequate.  
 12   Because the Court was reviewing Magistrate Judge Theiler's ruling, the contents of her  
 13   *Farettta* colloquy may be relevant to determining whether the record as a whole shows  
 14   that Lillard received adequate warnings before being allowed to proceed pro se.  
 15   Accordingly, because Lillard has placed the contents of this sealed hearing at issue in his  
 16   appeal, the Court should grant the government's motion and order this hearing unsealed  
 17   for purposes of responding to Lillard's appeal.

18       Because Lillard is represented by counsel on his appeal, the government has not  
 19   contacted Lillard to obtain his position on the current motion. Additionally, since  
 20   Lillard's appellate counsel does not represent Lillard in the proceedings in this Court  
 21   (Lillard was pro se at the time of sentencing), appellate counsel has also not been  
 22   contacted to obtain his position on this motion.

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28       Motion to Unseal for Limited Purpose  
 United States v. Lillard, CR16-007 RSM - 2

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1 DATED this 11th day of June, 2021.  
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Respectfully submitted,

TESSA M. GORMAN  
Acting United States Attorney

*/s/ Michael S. Morgan*  
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